

Attorney's Docket No.: 09857-031001

AF/ 3627
123

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Stuart Serkin et al.
Serial No. : 09/401,892
Filed : September 23, 1999
Title : LOCKED/CROSSED QUOTE HANDLING

Art Unit : 3627
Examiner : B. Jaketic

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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REPLY BRIEF

Pursuant to 37 CFR 1.193(b)(1), Applicant responds to the new points raised in the Examiner's Answer as follows.

On page 4 of the Examiner's Answer, the examiner states:

Appellant further argues that Biaisi et al do not teach the step of formatting a quote as a marketable limit order. Examiner concedes that Biaisi et al do not expressly use the terminology "formatting a quote as a marketable limit order." Biaisi et al teach that a market order is formatted as a limit order. However, it is inherent that the market order originated as a quote, so Biaisi et al anticipate the step of formatting a quote as a market limit order.

As used by Appellant's in the specification and as the term is understood in the references it is incorrect to say that: "However, it is inherent that the market order originated as a quote, ..."

An "order" whether market or limit order is entered into the system by order entry participants on behalf of customers. A "quote" on the other hand is an obligation that is undertaken by certain types of participants "market makers" to maintain a buy and sell side of

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the market. The claims are directed to the situation where one market maker enters a quote that can lock or cross the market, i.e., lock or cross another quote in the system. Claim 1 deals with this situation by formatting the quote as a marketable, limit order and routing the formatted order to a market participant whose quote was locked or crossed. Biais does not teach formatting a quote as an order, and certainly does not teach formatting a quote as a marketable limit order and routing the formatted order to a market participant whose quote was locked or crossed.

The examiner has not shown from the use of the terms in the art, or presented any arguments to support the newly raised contention that: "However, it is inherent that the market order originated as a quote, ..." is true. Rather, the references cited and Appellant's specification clearly teaches otherwise. See for instance, Biais Abstract "Order flow is concentrated near the quote, while the depth of the book is somewhat larger at nearby valuations."

The distinction between a quote and an order depends on several factors. For example, each a market maker can send a proprietary quote i.e., a quote that represents its own trading interest or an agency quote that represents trading interest of a sponsored entity. If one proprietary quote is sent it could be considered one order. If one agency quote is sent it also could be considered one order. If an agency quote reflects an aggregation of more than one agency order, however, the aggregate agency order could be considered a quote. Entering quotes are limited to registered market makers 12b and ECNs 12c and possible UTP Exchanges 12d. For any given stock, a registered market maker or ECN may directly enter a non-marketable order i.e., quote into the system 20 on behalf of its customer account, or it may sponsor the direct entry of an order by its customer. All sponsored, quotes are sent to the quote/order collector facility 20 under the name of the sponsoring market maker or ECN. Every registered market maker or ECN will be permitted to submit an unlimited number of non-marketable quotes to the system 20. (*Appellant's specification page 3 line 31 to page 4 line 18*)

Rather, even as used by Appellant with regard to the special situations of a single agency quote, ("If one agency quote is sent it also could be considered one order.") the order cannot be said to have originated as a quote. Rather, Appellant's system can ignore the distinction between

a quote and an order and considered the single principal or agency quote as one order. It does not mean that that the market order inherently originated as a quote. Rather, the references cited and Appellant's specification clearly teaches otherwise. Therefore, the examiner position and argument cannot be supported.

The remaining points of argument raised by the examiner were addressed in Appellant's Appeal Brief.

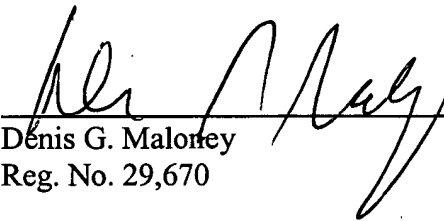
For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed.

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Respectfully submitted,

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